

# State of South Dakota

NINETY-SECOND SESSION  
LEGISLATIVE ASSEMBLY, 2017

435Y0302

## SENATE BILL NO. 146

Introduced by: Senators Ewing and Heinert and Representatives Otten (Herman) and Bartling

1 FOR AN ACT ENTITLED, An Act to revise the voting authority of an alderman.

2 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

3 Section 1. That § 9-8-1 be amended to read:

4 9-8-1. The chief executive officer of a municipality under the aldermanic form ~~shall be a~~ is  
5 the mayor. The mayor ~~shall hold~~ holds office for a term of not less than two nor more than five  
6 years as determined by ordinance. A ~~person~~ mayor may hold office for more than one term.

7 Section 2. That § 9-8-1.1 be amended to read:

8 9-8-1.1. ~~No person is eligible to~~ A person may be nominated, elected, or appointed as a  
9 mayor or as an alderman ~~unless such~~ if the person is a citizen of the United States, a voter of and  
10 resident of the municipality, and, if an alderman, a voter of and resident of the ward for which  
11 ~~such~~ the person is to hold office.

12 Section 3. That § 9-8-2 be amended to read:

13 9-8-2. If there is a vacancy from any cause in the office of the mayor, the vacancy shall be  
14 filled by appointment by a majority vote of the ~~members-elect of the common council~~ aldermen,  
15 as soon as practicable after the vacancy occurs, to serve until the office is filled by election for



1 the unexpired term at the next annual municipal election or by special election as provided in  
2 § 9-13-14.2. Until the vacancy is filled or during the time of temporary absence or disability of  
3 the mayor, the powers and duties of mayor ~~shall be~~ are executed by the president or vice  
4 president of the city council as provided in § 9-8-7.

5 Section 4. That § 9-8-3 be amended to read:

6 9-8-3. The mayor ~~shall preside~~ presides at all meetings of the council but ~~shall have no vote~~  
7 ~~except only votes~~ in case of a tie. He shall perform such The mayor performs other duties as  
8 may be prescribed by the laws and ordinances, and ~~take~~ takes care that ~~such the~~ laws and  
9 ordinances are faithfully executed. ~~He shall~~ The mayor shall annually ~~and from time to time, or~~  
10 as may be necessary, give the council information relative to the affairs of the ~~first or second~~  
11 ~~class~~ municipality, and ~~shall~~ recommend for ~~their~~ the council's consideration ~~such the~~ measures  
12 ~~as he may deem~~ the mayor deems expedient. ~~He shall have the power to sign or veto~~ The mayor  
13 may sign or veto any ordinance or resolution passed by the common council, and ~~the power to~~  
14 may veto any part or item of an ordinance or resolution appropriating money.

15 Section 5. That § 9-8-4 be amended to read:

16 9-8-4. The common council consists of the mayor elected at large and two aldermen elected  
17 from and by the voters of each ward of the municipality. The term of office is two years, unless  
18 a municipality adopts an ordinance establishing the term of office to be three, four, or five years.  
19 The mayor and aldermen ~~shall~~ hold office until their successors are elected and qualified. At the  
20 first election of aldermen, the council shall stagger the initial terms of the alderman in each ward  
21 to provide that the two aldermen are not up for reelection in the same year. A person may hold  
22 office for more than one term. ~~A~~ The vacancy ~~on the common council shall be~~ of an alderman  
23 is filled as provided in § 9-13-14.1 or 9-13-14.2

24 Section 6. That § 9-8-5 be amended to read:

1 9-8-5. The council ~~shall be~~ is the judge of the election and qualification of its ~~own~~ members.  
2 ~~It shall determine~~ The council determines its ~~own~~ rules of procedure, and may punish its  
3 members for disorderly conduct, and, with the concurrence of two-thirds of the aldermen ~~elected~~  
4 ~~thereto~~, may expel a member.

5 Any alderman who ~~shall have been~~ is convicted of bribery shall ~~thereby vacate his office the~~  
6 position.

7 Section 7. That § 9-8-7 be amended to read:

8 9-8-7. At the first regular meeting after the annual election in each year and after the  
9 qualification of the newly elected aldermen, the council shall elect from among its ~~own~~  
10 members a president and vice president, who shall hold their respective offices for the municipal  
11 year.

12 The president of the council in the absence of the mayor ~~shall be~~ acts as the presiding officer  
13 of the council, ~~and during~~. During the absence of the mayor from the ~~first or second class~~  
14 municipality or his the mayor's temporary disability ~~shall be~~, the president of the council is  
15 acting mayor and ~~possess~~ has all the powers of the mayor.

16 In the absence or disability of the mayor and president of the council, the vice president of  
17 the council shall perform the duties of the mayor and president of the council.

18 However, the president of the council or vice president of the council acting as the mayor  
19 shall only vote as an alderman. No alderman acting as mayor may vote as the mayor to break  
20 a tie vote.

21 Section 8. That § 9-8-8 be amended to read:

22 9-8-8. The council ~~shall hold~~ holds its regular meetings on the first Monday of each month  
23 but may, by ordinance, change the day of its regular monthly meetings. ~~It~~ The council may  
24 prescribe by ordinance the manner in which special meetings may be called ~~and may so change~~

1 ~~the day of its regular monthly meetings.~~

2 A majority of the aldermen ~~elected shall constitute~~ constitutes a quorum to do business, ~~but~~  
3 ~~a smaller number may adjourn from time to time and.~~ When a seat on a council is vacant due  
4 to removal, resignation, death, or by operation of law, the quorum consists of the majority of  
5 the remaining aldermen who are qualified to serve as aldermen by election or appointment  
6 pursuant to chapter 9-13. The council may compel the attendance of absentees under such  
7 penalties as may be prescribed by ordinance.

8 ~~It shall sit with open doors and~~ The meetings of the council are open to the public and it  
9 shall keep a journal of its proceedings.

10 Section 9. That § 9-8-10 be amended to read:

11 9-8-10. ~~The yeas and nays~~ A roll call vote shall be taken upon the passage of all ordinances  
12 and upon any proposal to ~~create a liability against the first or second class municipality or for~~  
13 ~~the expenditure or appropriation of its~~ expend or appropriate money, and in all other cases at  
14 the request of any member, ~~which.~~ All votes shall be entered ~~on the journal~~ in the minutes of  
15 its proceedings.

16 ~~The concurrence of a majority vote of all the aldermen shall be necessary to the passage of~~  
17 ~~any such~~ pass an ordinance or proposal which expends or appropriates money, and the mayor  
18 may not break a tie on an ordinance or proposal to expend or appropriate money. The mayor  
19 may break a tie on all other ordinances or proposals.

20 ~~It shall require a~~ A two-thirds vote of ~~all the aldermen~~ is required to sell any city property.

21 Section 10. That § 9-8-11 be amended to read:

22 9-8-11. ~~No~~ A vote of the council ~~shall~~ may be reconsidered or rescinded at a regular or  
23 special meeting ~~unless at such special meeting there be present as large a number of aldermen~~  
24 ~~as were present when such vote was taken~~ if a quorum is present and a majority vote to

1 reconsider or rescind the action.

2 Section 11. That § 9-19-11 be amended to read:

3 9-19-11. If the mayor vetoes any ordinance ~~or~~, resolution, or other item pursuant to § 9-19-

4 10 the finance officer shall present the ordinance ~~or~~, resolution, or other item with the mayor's

5 written objection at the next meeting of the council and it may be reconsidered. If the ordinance

6 or resolution is passed by a two-thirds vote of ~~all~~ the aldermen, it shall be published and become

7 effective notwithstanding the mayor's disapproval.